

### **Remarks**

Claims 9, 11, 19 and 21 remain pending in this application after entry of this paper. In the office action mailed on May 4, 2004, the Examiner had rejected these claims under 35 U.S.C. § 103(a) as being unpatentable over Bremer et al. (U.S. Patent No. 6,580,785). Applicants have amended each of these claims to incorporate the limitations of the corresponding base claim. All remaining claims have been canceled.

Claim 9 recites a broadband communication system utilizing xDSL packet-based technologies. An upstream xDSL modem is connected to a twisted pair having a plurality of taps defined along the twisted pair. Each downstream xDSL modem is in communication with a corresponding tap. The upstream xDSL modem and the plurality of downstream xDSL modems are configured to provide packet-based point-to-multipoint communication between the upstream xDSL modem and the plurality of downstream xDSL modems. Specifically, claim 9 recites, in combination with other limitations, point-to-multipoint communication. And further, claim 9 recites that the plurality of downstream xDSL modems are operative to transmit to the upstream xDSL modems in a contention-based protocol.

Claim 19 recites a broadband communication method for xDSL packet-based applications comprising a combination including packet-based point-to-multipoint communication between the upstream xDSL modem and a plurality of downstream xDSL modems, including transmitting from the plurality of downstream xDSL modems to the upstream xDSL modem in a contention-based protocol.

Regarding claims 9 and 19, the Examiner has taken official notice that a contention-based access protocol is a basic access protocol and well known in the art. The Examiner reasons that, therefore, it would have been obvious to one having ordinary skill to adopt a contention-based protocol into Bremer for the access.

Applicants contend that the claims recite specific combinations including a particular use of a contention-based protocol in combination with a particular xDSL system and method. There is no motivation to modify Bremer to incorporate a contention-based protocol


to achieve the claimed invention. The Examiner states that it would have been obvious to adopt a contention-based protocol to Bremer for the access. Applicants disagree. There is no motivation to combine a contention-based protocol into Bremer to achieve the claimed invention as such a protocol is not suggested for the specific claimed arrangement. According, applicants believe that these claims are patentable and also request that the Examiner provide a supporting reference if the rejection is not withdrawn.

Regarding claims 11 and 21, these claims recite a broadband communication system and method wherein, in combination with other limitations, the upstream xDSL modem is operative to transmit to the plurality of downstream xDSL modems in a broadcast-based protocol. The Examiner states that Bremer teaches a digital TV (56) and therefore it would have been obvious to one having ordinary skill in the art to incorporate a broadcast based protocol into Bremer to achieve the claimed invention. Applicants disagree. The Examiner has not provided motivation to make such modifications to Bremer to achieve the claimed invention. The Examiner only references digital TV (56) in Bremer and does not provide a basis for a motivation to combine teachings to achieve the claimed invention. Note that digital TV (56) is shown in drawings only on one of the modems. The particular claimed combinations including the broadcast-based protocol are not anticipated or suggested by Bremer.

Applicants respectfully request the Examiner reconsider this application and allow claims 9, 11, 19, and 21. A check for \$196.00 is enclosed for a one-month extension of time period and one additional independent claim in excess of three. The Director is hereby authorized to charge any additional fees or credit any overpayment as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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